

## CHAPTER 4

### ARCHITECTURAL DESIGN CONTROL<sup>1</sup>

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#### Sec. 4-1 Purposes of Chapter

The Town Council hereby finds that bizarre, garish or otherwise inappropriate exterior design and appearance of buildings, structures and improvements erected in commercial and industrial areas adversely affects the desirability of immediately adjacent and neighboring properties; impairs the benefits of occupancy as to existing properties in such areas; jeopardizes the economic stability and taxable value of businesses, land and buildings in such areas, and in the Town as a whole; prevents the optimum use of real estate in the Town; induces physical degeneration of property with attendant deterioration of conditions bearing directly on the public health, safety, morals and general welfare of the citizens; deprives the Town of tax revenue and destroys a proper balance between the taxable value of real property and the cost of municipal services.

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<sup>1</sup> As to Buildings, See Chapter 5 of this Code. As to Subdivisions, see Chapter 17. As to Zoning, see Chapter 18.

Therefore, in order to encourage the construction of attractive buildings, to protect and promote the general welfare and to prevent deterioration of the appearance of the Town which would tend to create hazards to public health, safety and morals, destroy opportunity for the development of business and industry, and thereby deteriorate taxable land values and commerce below levels necessary to finance acceptable levels of municipal services, it is the purpose of this chapter to provide for the designation of architectural control districts within land areas zoned for commercial, industrial and public building use, to establish a Board of Architectural Review to regulate the exterior appearance of buildings, structures and improvements proposed for alteration or erection in such districts and to set standards and procedures to be followed by such Board and, on appeal from its decision, by the Town Council. (Code 1962, § 17-1)

Sec. 4-2 Designations of Architectural Control Districts.<sup>2</sup>

All land areas in the Town which are zoned other than single family detached residential are hereby designated as an architectural control district, and any lot, parcel or area of land within any area zoned for single family, detached residences, which is used for other than single family, detached residences, or which is the subject of an application for a use permit or building permit involving any such other use, is designated an architectural control district. (Amend. 9-20-71)

Sec. 4-3 Board of Architectural Review--Established; Composition; Qualifications, Appointment and Terms of Office of Members; Jurisdiction Generally.<sup>3</sup>

There is hereby established a Board of Architectural Review to consist of five citizens of the Town appointed by majority vote of the Town Council for terms not to exceed three years. At least one member of the Board shall be an architect registered in the State, and one a member of the State Bar. The architect member may, or may not, be a resident of the Town. In the event that the one architect member shall not be a resident of the Town, his appointment shall be for a period of one year. Members of the Town Council and the Planning Commission shall be eligible to serve on the Board. The Board shall elect a Chairman to preside at all meetings, a Vice-Chairman to act in his absence and a Secretary who shall be responsible for keeping a written record of all Board proceedings and all notices, petitions, records, pleading and appeals pertinent thereto. The Board shall have exclusive original jurisdiction to hear and decide all cases arising under this chapter, but shall have no power to modify or waive any requirement imposed by another provision of this Code. (Code 1962, § 17-3; 7-68.)

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<sup>2</sup> For charter provision authorizing Town to designate architectural control districts, see Charter § 8-B.1.

<sup>3</sup> For charter provisions as to Board of Architectural Review, see Charter §§ 8-B.2, 8-B.3.

Sec. 4-4 Same-Meeting-Schedule; Special Meetings.

The Board of Architectural Review shall hold a regular meeting at least once each month at a time which it shall fix by resolution. Special meetings may be held at other times; provided that all members of the Board are notified at least twenty-four hours in advance of the time and place of same.

No application pending before the Board shall be voted upon at any special meeting unless notice of intention to do so shall appear in a newspaper of general circulation, published in the County, at least seven days prior to such a special meeting. (Code 1962, § 17-2)

Sec. 4-5 Same-Same- To be Recorded; Exception

All meetings of the Board of Architectural Review, except informal work sessions, shall be recorded verbatim by shorthand or by mechanical or electrical recording equipment. (Code 1962, § 17-5)

Sec. 4-6 Same-Same-Quorum

A quorum shall consist of three members of the Board of Architectural Review. In the event a quorum is not obtained at any regular meeting, a special meeting shall thereupon be scheduled within ten days thereafter. (Code 1962, § 17-5; 7-68)

Sec. 4-7 Same-Same-Conduct

(a) All meetings of the Board of Architectural Review shall be conducted by the Chairman, or, in his absence, by the Vice-Chairman.

(b) All members of the Board shall be entitled to vote, and the decisions of the Board shall be by majority vote of those members present.

(c) All meetings of the Board shall be open to the public and all decisions shall be by record vote of the ayes and nays spread upon the proceedings.

(d) In matters covering procedures for the Board not specified in this chapter, Robert's Rules of Order shall govern. (Code 1962, § 17-5)

Sec. 4-8 Same-Approval of Erections, Reconstructions and Alterations in Architectural Control Districts - Required; Waiver of Requirements

No structure, building, sign or other improvements or other major landscape features surrounding such building, structure, sign or improvement located on any land within any architectural control district shall be erected, reconstructed, altered or restored until the plans for such shall have been approved by the Board of Architectural Review; provided that the provisions of this chapter shall not apply to the regular maintenance of the same as opposed to the reconstruction, alteration or restoration. For the purposes of this section the repainting of a structure, building or sign which results in the complete change of color of the said structure, building or sign or a substantial portion thereof shall be deemed an alteration and not regular maintenance.

The Board may, after hearing the evidence in any case properly before it involving reconstruction or alteration only, waive the requirements of this Chapter upon a written finding that the application involves reconstruction or alteration only and will not materially affect the exterior appearance of the structure involved. Such decision of waiver shall constitute a final decision of the Board within the meaning of Section 4-11 and Section 4-12 of this Chapter and shall be appealable. (Code 1962, § 17-2, Amend. 4-19-71; 9-20-71)

Sec. 4-9 Same-Same-Application. (Amend. 3-88; 6-03)

(a) Application for approval by the Board for the construction, reconstruction, alteration or restoration of any building within an architectural control district shall be submitted to the Zoning Administrator of the Town accompanied by: (1) an architectural rendering and plans of all buildings and structures showing style of architecture prepared by a registered architect. All colors, materials and finishes shall be shown by notation or by use of accepted architectural symbols; (2) an approved site plan and (3) a vicinity map and renderings or photographs of all development on immediately adjacent properties. The applicant may submit such additional material in writing, and graphically, as he desires. For purposes of this Chapter, no site plan shall be required where there is proposed no change in any external dimension or the location of any existing structure. The Board may from time to time waive such other of the above requirements as it may deem proper in the determination of any particular application. In cases where the application involves reconstruction or alteration only, and will not materially affect the exterior design or appearance, or result in an increase in the size, area, height, or lot coverage of any structure, building, or sign, the Zoning Administrator may waive such of the requirements of (1), (2), and (3) above, as he deems appropriate, and permit the applicant to supply information necessary to the Board's consideration of the application in the form of photographs, descriptive product information material, sketches, drawings, and other written materials. Each application shall be accompanied by a check or cash payment to the Town of Vienna in the amount set forth in the Schedule of Fees adopted by the Town and shall be assigned a docket number by the Zoning Administrator. (Amend. 4-71; 3-88; 6-03)

(b) Upon filing of an application, the Zoning Administrator, after determining that the

requirements of subsection (a) of this Section have been satisfied, shall within twenty (20) days thereafter, forward the application, together with his recommendations on the same to the Chairman of the Board of Architectural Review.

(c) Upon receipt of any such application, the Chairman of the Board shall thereupon place the application on the agenda for consideration at the first regular meeting of the Architectural Review to be held not less than ten (10) days after such receipt by the Chairman. (Code 1962, § 17-5)

### Sec. 4-10 Same-Same-Hearing

During the consideration of an application filed under this Chapter, the Board of Architectural Review shall hear the testimony of any party desiring to be heard in support of or in opposition to the application. Such testimony shall be strictly confined to the question of whether the proposed construction, reconstruction, alteration or restoration satisfies or does not satisfy the criteria for the same set out in this Chapter. The Board shall hear any oral testimony that the Zoning Administrator desires to present. (Code 1962, § 17-5)

### Sec. 4-11 Same-Same-Decisions; Certificate of Approval

(a) The Board of Architectural Review shall vote and publish its decision in writing on any matter properly before it not later than the next regular meeting after the conclusion of hearing evidence on the matter, unless time is extended by mutual agreement between the Board and the applicant.

(b) In all final decisions rendered pursuant to this Chapter, the Board shall briefly state its findings in writing, and, in the case of disapproval, it may make recommendations to the applicant with respect to the design, texture, material, color, line, mass, dimension or lighting of the building involved. In case of disapproval, accompanied by such recommendations thereon, the applicant may again be heard before the Board if, within ninety (90) days, he can comply with all such recommendations of the Board.

(c) Approval by the Board of any application filed hereunder shall be evidenced by issuance of a certificate, signed by the Chairman and attested by the Secretary, designating the docket number, name of applicant, date of approval, identification of property involved and a brief description of the construction approved. (Code 1962, § 17-5)

Sec. 4-12 Same-Same-Appeals (Amend. 6-03)

Whenever the Board of Architectural Review shall, in a final decision, approve or disapprove, or waive jurisdiction over any application filed pursuant to this Chapter, the applicant, or any other person with justifiable cause, shall be entitled to appeal such decision and be heard thereon before the Town Council; provided, that there is filed with the Town Clerk, on or before

fourteen (14) days after the decision of the Board, by the appellant, a notice in writing of such appeal and a fee of one hundred twenty-five dollars (\$125.00), or as otherwise set forth in the Schedule of

Fees adopted by the Town, to cover the cost of advertising for the Council hearing; provided, further, that whenever such notice of appeal is filed by a party other than the applicant, such notice shall be accompanied by a petition for such appeal in writing, signed by twenty (20) electors of the Town. Upon the filing of notice of appeal as provided herein, the Town Clerk shall thereupon schedule a public hearing before the Town Council, not more than thirty (30) days after the filing of such notice; provided, that no such hearing shall be had unless and until the Town Clerk has caused to be published at least once in a newspaper of general circulation within the County, at least seven days before such proposed hearing, an advertisement stating the time, date and place of the hearing before the Council, the location of the property involved, the name of the applicant and the nature of the building for which approval is sought. (Code 1962, § 17-8; Amend. 06-03)

#### Sec. 4-13 Hearing before Town Council

On any appeal to the Town Council, the final decision of the Board of Architectural Review shall be stayed pending the decision of the Town Council. The Council shall conduct a full and impartial public hearing on the matter before rendering any decision. The same procedure and standards shall be applied by the Council as are established for the Board of Architectural Review. The Council may affirm, reverse or modify the decision of the Board, in whole or in part. The decision of the Council be final subject to the provision of Section 4-14. (Code 1962, § 17-9.)

#### Sec. 4-14 Appeals to County Circuit Court

Parties aggrieved by the decision of the Town Council, rendered pursuant to Section 4-13, shall have the right to appeal to the Circuit Court of the County for review by filing a petition, at law, setting forth the alleged illegality of the Town Council's action, provided, that such petition is filed within thirty (30) days after the final decision is rendered by the Town Council. The filing of the petition shall stay the Council's decision pending the outcome of the appeal to the court. The court may reverse or modify the decision of the Council, in whole or in part, if it finds upon review that the decision of the Council is contrary to law, or that its decision is arbitrary and constitutes an abuse of discretion, or it may affirm the decision of the Council. (Code 1962, § 17-10)

#### Sec. 4-15 Design Criteria

The Board of Architectural Review, and, on appeal, the Town Council, shall use the following standards and criteria in considering applications filed under this Chapter:

(a) Whether or not the proposed architectural design is suitable for a good suburban community in terms of external architectural features, including signs subject to public view, general design and arrangement, texture, color, line, mass, dimension, material and lighting.

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(b) Whether or not the proposed structure, building or improvement is compatible with existing well-designed structures, acceptable to the Board, in the vicinity and in the Town as whole.

(c) Whether or not, and to what extent, the proposed structure, building or improvement would promote the general welfare and protect the public health, safety and morals by tending to maintain or augment the Town's tax base as a whole, generating business activity, maintaining and

creating employment opportunity, preserving historical sites and structures and making the Town a more attractive and desirable place in which to live.

(d) Whether or not proposed free-standing buildings use the same or architecturally harmonious materials, color, texture and treatment for all exterior walls; and in the case of partially free-standing buildings, whether or not the same or architecturally harmonious materials, color, texture and treatment are used on all portions of all exterior walls exposed to public view.

(e) Whether or not the combination of architectural elements proposed for a structure, building or improvement, in terms of design, line, mass, dimension, color, material, texture, lighting, landscaping and roof line and height conform to accepted architectural principles for permanent buildings as contrasted with engineering standards designed to satisfy safety requirements only; and exhibit external characteristics of demonstrated architecture and aesthetic durability.

(f) Whether or not, in terms of design, material, texture, color, lighting, landscaping, dimension, line, mass, or roof line and height, the proposed structure, building or improvement is designed to serve primarily as an advertisement or commercial display, exhibits exterior characteristics likely to deteriorate rapidly, would be of temporary or short-term architectural or aesthetic acceptability, would be plainly offensive to human sensibilities or would otherwise constitute a reasonable foreseeable detriment to the community. (Code 1962, § 17-7)

#### Sec. 4-16 No Specific Architectural Style to be Required

The Board of Architectural Review, and the Town Council on appeal, shall not adopt or impose any specific architectural style in the administration of this Chapter. (Code 1962, § 17-7)

#### Sec. 4-17 Deviations from Approved Plans Prohibited

Any person who once having obtained the approval required by Section 4-8 of this Chapter deviates substantially from the approved plan shall be guilty of a misdemeanor. (Code 1962, § 17-12; 7-68)

## Vienna Town Code